



Transcript of Proceedings

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Date 14/1/03

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

MUIR J

No 10390 of 2002

ROBERT JAMES WILSON

Applicant

and

BADJA PTY LTD (ACN 010 007 342)

Respondent

BRISBANE

..DATE 03/12/2002

JUDGMENT

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: The application is under section 459P of the Corporations Act 2001 for the winding up of Badja Proprietary Limited on the grounds of insolvency. Mr Conimos appears for the applicant and I gave leave to Mr Bright, the sole director of Badja, to appear on its behalf.

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In order to establish insolvency the applicant relies on non-compliance with a statutory demand for \$20,091, being the amount of a judgment obtained on 26 September 2002 by the applicant against the respondent after a trial in the Magistrates Court.

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There has been no appeal from that decision. The respondent has not attempted to establish solvency. Indeed the only material filed by it which is relevant to that question suggests that the respondent is insolvent.

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As the applicant relies on a failure to comply with the statutory demand the respondent may not, without leave of the Court, oppose the application on a ground that the respondent could have relied on but did not rely on in order to attempt to set aside the statutory demand. Under s 465C of the Act a person may not, without leave of the Court, oppose a winding-up application unless that person has filed and served on the applicant notice of the grounds on which that person opposes the application.

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The case which Mr Bright sought to make out was confused; it involved an attack on the Commonwealth Bank, as well as allegations of violence and intimidation against the applicant. The point appeared to be that the applicant's conduct as a head contractor brought about the failure of a property development undertaken by the respondent and that such failure has caused the respondents financial difficulties.

It would appear that matters of this nature were ventilated in the Magistrates Court without success and as I mentioned, no appeal has been instituted from the judgment. Nor has the applicant otherwise commenced proceedings to vindicate his claims.

It is deposed to by Mr Bright that in respect of the matters in question he has worked with four barristers and ten solicitors at a cost of a quarter of a million dollars. He mentions misconduct by a barrister acting for him whom, it is said, has been dealt with for misconduct and I gather is no longer in practice.

The distinct impression I have is that the respondent has become so emotionally entangled in his financial misfortunes that he has lost all sense of objectivity and clarity of thought. A consequence of this state of affairs is that it is

impossible to extract from his affidavit and his submissions
any matters which could, on the balance of probabilities,
support a decision on my part to give leave under sections
465C or 459S.

I mention that the respondent has devoted a great amount of
time and energy to the preparation of numerous brochures
which, in a loose and diffuse way, deal with the problems that
he conceives confront him. Those brochures reveal a person
who is disturbed as a result of his difficulties and who has
lost the power to properly address the issues which need to be
addressed in order to provide any grounds of defence to claims
such as the one the applicant has brought. It is unfortunate
for the respondent that the time and energy devoted to his
publications could not have been properly channelled into
dealing with the issues in question with some clarity,
relevancy and precision.

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HIS HONOUR: The applicant appears to have complied with the
provisions of the Act in relation to the application and there
is nothing put before me which would suggest any lack of non-
compliance. That was not an issue which the respondent
addressed.

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HIS HONOUR: For the above reasons I order in terms of the
draft initialled by me.

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